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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/788,049

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Michael V. Klein

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EXAMINER

MORGAN, ROBERT W

ART UNIT

PAPER NUMBER

3626

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/788,049

Applicant(s)

KLEIN ET AL.

Examiner

Robert W. Morgan

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/11/01.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 10-11 and 29 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U. S. Patent No. 5,655,084 to Pinsky et al.

As per claim 1, Pinsky teaches a method for secure distribution of digital healthcare data using an offsite internet file server, comprising the steps of:

a) creating a digital medical data file representative of an analog or digital medical study produced by a diagnostic healthcare device is met by the images being created by conventional x-ray technology, etc... (see: column 1, lines 47-51);

b) transmitting said digital medical data file to a local client machine communicatively coupled to said diagnostic healthcare device and the internet is met by the host computer that allows input of data which is combined with the image data and using network protocol transmitted the data over the network (see: column 9, lines 29-47);

c) transmitting said digital medical data file over the internet from said local client machine to a remote internet file server communicatively coupled to the internet in response to a command signal from said local client machine is met by the host computer that allows input of data which is combined with the image data and using network protocol transmitted the data over the network (see: column 9, lines 29-47). In addition, a file server (98, Fig. 2B) consisting of a

Art Unit: 3626

general computer and network operation system allows transparent routing of images from the WAN to the LAN (see: column 10, lines 46-52).

d) storing said digital medical data file on a server storage data device on said remote internet file server is met by the file server (112, Fig. 2C) that includes one or more storage units (114, Fig. 4) (see: column 12, lines 11-36); and

e) transmitting said digital medical data file over the internet from said remote internet file server to a remote client machine communicatively coupled to the internet in response to a command signal from said remote client machine is met by the re-transmission of a study (digital medical file) from the Admin. Site (104, Fig. 4) that includes file server(s) (112, Fig. 2C) for routing information from the Admin Site (104, Fig. 4) to another interpretation site (12, 16, 18, Fig. 1) (see: column 4, lines 59 to column 5, lines 7).

As per claim 10, Pinsky et al. teaches the claimed medical information comprises a set of measurement data generated by the device-specific hardware of the healthcare device. This feature is met by determining the parameters of the study including determining a modality of the study such as computer assisted tomography, conventional x-ray imaging, computed radiology, magnetic resonance imaging, etc... (see: column 2, line 27-35). In addition, Pinsky et al. teaches information about a patient, which is a subject of the study such as patient age and sex, or information about an anatomy of a patient (see: column 2, line 27-36).

As per claim 11, Pinsky et al. teaches the claimed medical information further comprises a patient identifier corresponding to the measurement data. This limitation is met by a patient radiological study or "Study" which includes information associated with the patient such as patient-identifying data (see: column 3, lines 57-64).

Art Unit: 3626

As per claim 29, Pinsky et al. teaches the claimed data comprises a set of digitized patient clinical records. This feature is met by the one or more radiological images which together form a patient radiologic Study (see: column 3, lines 57-64).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 5,655,084 to Pinsky et al. in view of U. S. Patent 6,574,742 to Jamroga et al.

As per claim 2, Pinsky fails to teach the claimed step of said local client machine encrypting said digital medical data file prior to transmission over the internet.

Jamroga teaches a system for communication, storage, retrieval and delivery device where all communication to and from the servers is secured transmissions digitally encrypted (see: column 9, lines 1-11).

Therefore, it would have been obvious to a person of ordinary skill in the art the time the invention was made to include encrypt all communication to and from servers as taught by Jamroga within the system for improving the distribution of radiology services as taught by Pinsky with the motivation of providing a hospital image storage management system that is faster, more secure and more cost effective (see: Jamroga: column 4, lines 12-16).

As per claim 3, Pinsky teaches the claimed communications link between said local client machine and said remote internet file server uses a uniform resource locator or internet protocol

Art Unit: 3626

number. This limitation is met by the various software protocol used to transfer medical images between the acquisition sites, regional hubs, SRP and other location include but no limited to TCP/IP (see: column 7, lines 36-41).

As per claim 4, Jamroga teaches the claimed step of transmitting said digital medical data file over internet is performed if the transfer command to said remote internet file server includes information confirming user access privileges. This feature is met by the security functions performed by the warehouse server such as unknown transactions or communications transmitted from unknown users are blocked (see: column 12, lines 66 to column 13, lines 4).

As per claim 5, Jamroga teaches the claimed step of transmitting said digital medical data file over the internet is performed using a communications protocol providing authentication of said local client machine or said remote internet file server. This feature is met by the security functions performed by the warehouse server such as unknown transactions or communications transmitted from unknown users are blocked (see: column 12, lines 66 to column 13, lines 4).

As per claim 6, Jamroga teaches the claimed step of transmitting said digital medical data file over the internet is performed using a communications protocol providing in-transit encryption of said digital medical data file to said remote internet file server. This limitation is met the system for communication, storage, retrieval and delivery device where all communication to and from the servers are secured transmissions digitally encrypted (see: column 9, lines 1-11).

5. Claims 7-9 rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 5,655,084 to Pinsky et al. in view of U. S. Patent 6,574,742 to Jamroga et al. as applied to claim 1 above, and further in view of U. S. Patent No. 6,353,445 to Babula et al.

Art Unit: 3626

As per claim 7, Pinsky et al. and Jamroga et al. teach image viewing equipment (116, Fig. 2C) that can include a reading workstation (first means for receiving data) capable of displaying items on a CRT display, and/or printing hardcopies of the radiological images that are acquired and sent by the image acquisition equipment (38, Fig. 1) and/or stored, retrieved, and sent by the image server (112, Fig. 2C) (second means for transmitting data) (see: Pinsky et al.: column 12, lines 35-41).

Pinsky et al. and Jamroga et al. fail to teach the claimed a) a web server that generates a web page wherein said web page provides a set of user interface functions related to file transmission, display and maintenance.

Babula et al. teaches medical image system including a server (130, Fig. 3) that facilitates data exchange between the diagnostic system and service facility, and permits a series of web pages (110, 112, Fig. 3) viewed via browser (132, Fig. 3) (see: column 8, lines 61-65). In addition, Babula et al. teaches main web page (110, Fig. 3) preferable accessible from a normal operating page in which the user will configure examination requests, view results of examinations and so forth (see: column 7, lines 53 to column 8, lines 10).

One of ordinary skill in the art at the time the invention was made would have found it obvious to include user interface web pages as taught by Babula et al. with the system of Pinsky et al. and Jamroga et al. with the motivation of providing user interfaces that a user to identify and define serviceable conditions as they occur (see: Babula et al.: column 2, lines 34-37).

As per claims 8-9, Pinsky et al. and Jamroga et al. teach image viewing equipment (116, Fig. 2C) that can include a reading workstation (first means for receiving data) capable of displaying items on a CRT display, and/or printing hardcopies of the radiological images that are

Art Unit: 3626

acquired and sent by the image acquisition equipment (38, Fig. 1) and/or stored, retrieved, and sent by the image server (112, Fig. 2C) (second means for transmitting data) (see: Pinsky et al.: column 12, lines 35-41).

Pinsky et al. and Jamroga et al. fail to teach:

- a) transmitting client file uploading code does not exist on said local client machine;
- b) executing said client file uploading code on local client machine to establish a communications channel between said local client machine and remote internet file server; and
- c) executing remote internet file server file uploading code to provide for acceptance of file upload from said local client machine to said remote internet file server.

Babula et al. teaches that the service facility may sweep the diagnostic system for data required for reports at step 328 with the purpose of connecting system components via a network connection, identifying desired data, and transmitting the data either in an "upload" or a "download" scenario depending upon the nature of the data and its use in servicing the system (see: column 20, lines 3-11).

The obviousness of combining the teachings of Babula et al. with the system of Pinsky et al. and Jamroga et al. are discussed in rejection of claim 7, and incorporated herein.

6. Claims 12-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 5,655,084 to Pinsky et al.

As per claim 12, Pinsky et al. teaches determining the parameters of the study including determining a modality of the study such as computer assisted tomography, conventional x-ray imaging, computed radiography, magnetic resonance imaging, nuclear medicine, and ultrasound imaging (see: column 2, line 27-35). In addition, Pinsky et al. teaches information



Art Unit: 3626

about a patient, which is a subject of the study such as patient age and sex, or information about an anatomy of a patient (see: column 2, line 27-36).

Pinsky et al. does not expressly teach various types of measurement data generated by the device-specific hardware.

However these differences are only found in the non-functional measurement data generated by the patient using the device-specific hardware. The measurement data including the time-stamp corresponding to the measurement data, fluoroscopy, angiography, blood pressure, pathology, blood analysis, electrocardiogram recorder, lung efficiency, blood glucose, blood alcohol, fecal blood, and body weight are not functionally related to the functions of the healthcare device. Thus, this descriptive information will not distinguish the claimed invention from the prior art in terms of patentability, see Cf. *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 40, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use various types of measurement data in the system for improving the distribution of radiology services as taught by Pinsky et al. because such information does not functionally relate to the secure distribution of digital healthcare data and merely using different measurement data from that in the prior art would have been obvious matter of design choice. See *In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3626

In related art (6,260,021) Wong et al. teaches an objected-oriented system and method for easily and rapid distributing medical images for existing picture and report storage system.

In related art (5,867,821) Ballantyne et al. teaches a method and apparatus used for the distribution and administration of medical services to a patient's individual electronic patient care station (PCS) which stores data in digital compressed format.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is (571) 272-6773. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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PRIMARY EXAMINER